IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 15594 of 2005

Between:

Bollam Venkata Rao, S/o.Subbana,
R/o.Pedatadepalli, T.P.Gudem Mandal, W.G.district.

..... PETITIONER

AND

1 The Regional Joint Commissioner of Endowments, Kakinada , E.G. District.
2 The Asst. Commissioner, Endowments Department, Eluru, W.G. District.
3 Sr Veereswar Swami Vari Devasthanam, Kondruprolu, T.P. Gudem Mandal, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus L: declaring the action of the respondents in conducting auction of the lease hold rights in the property which in petitioner's possession since 32 Years i.e, an extent of Ac.3.00 of Dry Land in R.S.No.987 of Pedatadepalli Village, Tadepally Gudem mandal, West Godavari district. Pending RP.No.237/2005 before the 1st Respondent as illegal, arbitrary and Violative of Principles of Natural Justice and consequently direct the 1st respondent not to dispossess the petitioner from the land i.e, an extent of Ac.3.00 of Dry Land in R.S.No.987 of Pedatadepalli Village, Tadepallygudem Mandal, W.G. District and to pass necessary order or orders.

Counsel for the Petitioner: MR.YALLABANDI RAMATIRTHA

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for respondent No.3 : Smt. N.Indrani

The Court made the following :

ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments appearing on behalf of respondents 1 and 2 and Smt. N.Indrani, learned counsel appearing on behalf of respondent No.3 – temple and with their consent the writ petition is disposed of at the stage of admission.

The grievance of the petitioner herein is that while a notice was issued on 25-1-2005 by the 2nd respondent asking the petitioner to attend the office of the 2nd respondent on 28-1-2005, he received a copy of the said notice only on 28-1-2005 and as such he could not appear before the 2nd respondent. The 2nd respondent passed order on 28-1-2005 holding that the petitioner was not a landless poor person on the ground that he was cultivating an extent of Ac.3-00 of wet land.

Against the said order, the petitioner preferred appeal before the 1st respondent in R.P.NO.237/05, which the learned counsel for the petitioner submits, is still pending. In the said appeal, the petitioner herein categorically stated that the land leased out to him was Ac.3-00 of dry land, that the summons sent by the 2nd respondent was received by him only in the late afternoon of 28-1-2005 as a result of which he was not able to attend the enquiry before the 2nd respondent. In addition, a copy of the proceedings dated 22-6-2005 issued by the M.R.O., Tadepallygudem was filed wherein the land in Sy.No.R.S.987 of Pedatadepally village, Tadepallygudem is shown as dry land.

Both the learned Government Pleader for Endowments and Smt. Indrani contend that since the extent of Ac.3-00 land in possession of the petitioner, is wet land as is clear from the auction notification, the petitioner would not fall within the definition of a landless poor person. Since there is a dispute to whether the land of Ac.3-00 under cultivation of the petitioner is dry land or wet land, and if the said extent is held to be dry land the petitioner would fall within the definition of landless poor person, these are matters for the 1st respondent to decide in the appeal preferred by the petitioner in R.P.237/05.

Learned counsel for the petitioner submits that the 3rd respondent is proceeding ahead with the auction which is scheduled to be held tomorrow i.e., 19-7-2005. While the auction proceedings may go on, the same shall not be finalized till the

appeal preferred by the petitioner in R.P.No.237/05 is heard and decided by the 1st respondent.

The writ petition is disposed of accordingly. No costs.

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18-7-2005

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To:

1 The Regional Joint Commissioner of Endowments, Kakinada , E.G. District.
2 The Asst. Commissioner, Endowments Department, Eluru, W.G. District.
3 Sr Veereswar Swami Vari Devasthanam, Kondruprolu, T.P. Gudem Mandal, W.G.District.

4. Two C.Cs to the G.P. for Endowments, High Court Buildings, Hyderabad (OUT)

5. Two C.D. copies